

BEFORE THE BOARD OF REAL ESTATE APPRAISERS

STATE OF IDAHO

In the Matter of the License of:)	
)	Case No. REA-2007-14
JOHN W. LANG,)	
License No. CGA-1660,)	STIPULATION AND
)	CONSENT ORDER
Respondent.)	
)	

 REA\Lang\P7177lma

WHEREAS, information having been received by the Idaho State Board of Real Estate Appraisers (hereinafter the "Board") which constitutes sufficient grounds for the initiation of an administrative action against John W. Lang (hereinafter "Respondent"); and

WHEREAS, the parties mutually agree to settle the matter pending administrative Board action in an expeditious manner; now, therefore,

IT IS HEREBY STIPULATED AND AGREED between the undersigned parties that this matter shall be settled and resolved upon the following terms:

A.

1. The Board may regulate the practice of real estate appraising in the State of Idaho in accordance with title 54, chapter 41, Idaho Code.

2. Respondent John W. Lang is a licensee of the Idaho State Board of Real Estate Appraisers and holds License No. CGA-1660 to practice real estate appraising in the State of Idaho. Respondent's license is subject to the provisions of title 54, chapter 41, Idaho Code.

3. Pursuant to Idaho Code § 54-4103, it is unlawful for any person to appraise real estate located in the State of Idaho unless that person has first been licensed or certified by the Board. Idaho Code § 54-4104(1) defines an "appraisal" as "an analysis, opinion or conclusion relating to the value, nature, quality or utility of specified interests

in, or aspects of, identified real estate.”

4. Appraisals in the State of Idaho must comply with the minimum standards set forth in the Uniform Standards of Professional Appraisal Practices (“USPAP”).

5. Respondent is a Utah State Certified General Appraiser and maintains his office in Holladay, Utah.

6. On October 14, 2005, Respondent traveled from Utah to Idaho and conducted an appraisal of property located at 1514 West Karcher Road in Nampa, Idaho (the “Subject Property”), for purposes of a condemnation action in Idaho state court. In connection with appraising the Subject Property and providing an oral report to his client in Boise, Idaho, Respondent prepared and submitted to his client a written summary of his oral report which identifies a “report date” of October 14, 2005, and a “date of value” of December 28, 2004. Respondent’s certification for the appraisal certifies that “the real estate, which is the subject of this appraisal report, was valued as of October 14, 2005,” and further certifies that the valuation is for “the appraiser[’]s opinion of the market value of the subject property parcels ... in the before condition as of 12/28/04.” On October 21, 2005, Respondent conferred with his client regarding Respondent’s valuation of the Subject Property. Respondent was not licensed as a real estate appraiser in the State of Idaho at the time of these events.

7. On or about October 26, 2005, Respondent submitted an application for a temporary practice permit to the Bureau of Occupational Licenses. On or about October 31, 2005, the Bureau of Occupational Licenses notified Respondent that he needed to submit the required fee and Utah state licensure verification before the temporary permit application could be processed.

8. Respondent subsequently submitted the required fees and licensure verification and was issued Temporary License No. TCGA-1611 on December 27, 2005.

9. On or about February 14, 2006, Respondent submitted an application for licensure by reciprocity, and License No. CGA-1660 was issued to Respondent on

February 17, 2006.

10. Respondent's appraisal of the Subject Property without first having been licensed by the Board constitutes a violation of Idaho Code §§ 54-4103 and 54-4107(1)(d).

11. Respondent, in lieu of proceeding with a formal disciplinary action to adjudicate the allegations as set forth above, hereby admits the violations and agrees to the discipline against his license as set forth in Section C below.

B.

I, John W. Lang, by affixing my signature hereto, acknowledge that:

1. I have read and admit the allegations pending before the Board, as stated above in Section A. I further understand that these allegations constitute cause for disciplinary action upon my license to practice real estate appraising in the State of Idaho.

2. I understand that I have the right to a full and complete hearing; the right to confront and cross-examine witnesses; the right to present evidence or to call witnesses, or to so testify myself; the right to reconsideration; the right to appeal; and all rights accorded by the Administrative Procedure Act of the State of Idaho and the laws and rules governing the practice of real estate appraising in the State of Idaho. I hereby freely and voluntarily waive these rights in order to enter into this stipulation as a resolution of the pending allegations.

3. I understand that in signing this Stipulation and Consent Order I am enabling the Board to impose disciplinary action upon my license without further process.

C.

Based upon the foregoing stipulation, it is agreed that the Board may issue a decision and order upon this stipulation whereby:

1. License No. CGA-1611 issued to Respondent John W. Lang is hereby suspended for a period of ninety (90) days. During the 90-day mandatory suspension period, Respondent shall not practice real estate appraising in the State of Idaho. The 90-

day mandatory suspension period shall commence seven (7) days from the date of entry of the Board's Order.

2. Respondent shall pay investigative costs and attorney fees in the amount of One Thousand One Hundred Seventy-Five and No/100 Dollars (\$1,175.00) within sixty (60) days of the entry of the Board's Order.

3. Respondent shall take and complete a 15-hour National USPAP course within one (1) year from the date of entry of the Board's Order, and Respondent shall take and pass any examinations given at the conclusion of the courses. Respondent shall submit to the Board proof of attendance and proof that he passed any given examination within 30 days of attendance. If no examination is given at the conclusion of the course, Respondent shall submit to the Board a letter from the course instructor stating that no examination was given. Said continuing education shall be in addition to continuing education that Respondent is generally required to obtain to maintain his license.

4. All costs associated with compliance with the terms of this Stipulation and Consent Order are the sole responsibility of Respondent.

5. The violation of any of the terms of this Stipulation and Consent Order by Respondent will warrant further Board action. The Board therefore retains jurisdiction over this proceeding until all matters are finally resolved as set forth in this Stipulation.

D.

1. It is hereby agreed between the parties that this Stipulation and Consent Order shall be presented to the Board with a recommendation for approval from the Deputy Attorney General responsible for prosecution before the Board at the next regularly scheduled meeting of the Board.

2. Respondent understands that the Board is free to accept, modify with Respondent's approval, or reject this settlement agreement, and if rejected by the Board, an administrative Complaint will be filed. By signing this document, Respondent waives any right Respondent may have to challenge the Board's impartiality to hear the

allegations in the Complaint based on the fact that the Board has considered and rejected this settlement agreement. Pursuant to Idaho Code § 67-5252, Respondent retains the right to otherwise challenge the impartiality of any Board member to hear the allegations in the Complaint based upon bias, prejudice, interest, substantial prior involvement in the case or any other reason provided by law or for any cause for which a judge is or may be disqualified.

3. If the Board does not accept this Consent Order then, except for Respondent's waiver set forth in Paragraph D(2), above, it shall be regarded as null and void. Admissions by Respondent in the settlement agreement will not be regarded as evidence against Respondent at the subsequent disciplinary hearing.

4. With the exception of Paragraph D(2), above, which becomes effective upon Respondent signing this document, this Stipulation and Consent Order shall not become effective until it has been approved by a majority of the Board and endorsed by a representative member of the Board.

5. Any failure on the part of Respondent to timely and completely comply with any term or condition herein shall be deemed a default.

6. Any default of this Stipulation and Consent Order shall be considered a violation of Idaho Code § 54-4107. If Respondent violates or fails to comply with this Stipulation and Consent Order, the Board may impose additional discipline pursuant to the following procedure:

a. The Chief of the Bureau of Occupational Licenses shall schedule a hearing before the Board to assess whether or not Respondent has defaulted under this agreement. The Chief shall also serve notice of the default hearing and charges to Respondent and to Respondent's attorney, if any. Within twenty-one (21) days after the notice of default hearing and charges is served, Respondent shall submit a response to the allegations. If Respondent does not submit a timely response to the Board, the allegations of default will be deemed admitted.

b. At the default hearing, the Board and Respondent may submit affidavits made on personal knowledge and present oral argument based upon the record in support of their positions. Unless otherwise ordered by the Board, the evidentiary record before the Board shall be limited to such affidavits and this Stipulation and Consent Order. Respondent waives a hearing before the Board on the facts and substantive matters related to the violations described in Section A, and waives discovery, cross-examination of adverse witnesses, and other procedures governing administrative hearings or civil trials.

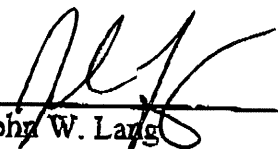
c. At the default hearing, the Board will determine whether to impose additional disciplinary action, which may include conditions or limitations upon Respondent's practice or suspension or revocation of Respondent's license.

7. This Stipulation and Consent Order is the resolution of a contested case and is a public record.

8. This Stipulation and Consent Order contains the entire agreement between the parties, and Respondent is not relying on any other agreement or representation of any kind, verbal or otherwise.

I have read the above stipulation fully and have had the opportunity to discuss it with legal counsel. I understand that by its terms I will be waiving certain rights accorded me under Idaho law. I understand that the Board may either approve this stipulation as proposed, approve it subject to specified changes, or reject it. I understand that, if approved as proposed, the Board will issue an Order on this stipulation according to the aforementioned terms, and I hereby agree to the above stipulation for settlement. I understand that if the Board approves this stipulation subject to changes, and the changes are acceptable to me, the stipulation will take effect and an order modifying the terms of the stipulation will be issued. If the changes are unacceptable to me or the Board rejects this stipulation, it will be of no effect.

DATED this 15 day of October, 2008.

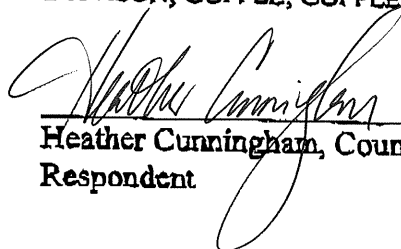


John W. Lang
Respondent

Approved as to form.

DATED this 20 day of October, 2008.

DAVISON, COPPLE, COPPLE & COX, LLP

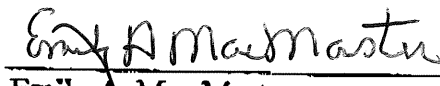


Heather Cunningham, Counsel for
Respondent

I concur in this stipulation and order.

DATED this 21 day of October, 2008.

STATE OF IDAHO
OFFICE OF THE ATTORNEY GENERAL


By 

Emily A. Mac Master
Deputy Attorney General

ORDER

Pursuant to Idaho Code § 54-4106, the foregoing is adopted as the decision of the Board of Real Estate Appraisers in this matter and shall be effective on the 8th day of December, 2008. **IT IS SO ORDERED.**

IDAHO STATE BOARD
OF REAL ESTATE APPRAISERS

By 
Rick Bachmeier, Chair

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 8th day of December, 2008, I caused to be served a true and correct copy of the foregoing by the following method to:

John W. Lang
Lang Appraisal Service, Inc.
2350 Phyliden Drive, Suite 1
Holladay, UT 84117-4509


- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Heather Cunningham
Davison, Copple, Copple & Cox, LLP
199 N. Capitol Blvd.
P.O. Box 1583
Boise, ID 83701

- ☒ U.S. Mail
- ☐ Hand Delivery
- ☒ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☐ Statehouse Mail

Emily A. Mac Master
Deputy Attorney General
P.O. Box 83720
Boise, ID 83720-0010

- ☐ U.S. Mail
- ☐ Hand Delivery
- ☐ Certified Mail, Return Receipt Requested
- ☐ Overnight Mail
- ☐ Facsimile: _____
- ☒ Statehouse Mail


Tana Cory, Chief
Bureau of Occupational Licenses